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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of: Grychowski, et al.
Appln. No.: 10/774,751
Filed: February 9, 2004
For: VENTILATOR CIRCUIT AND METHOD FOR
THE USE THEREOF

Examiner: Patel, Nihir B.

Art Unit: 3743

Attorney Docket No: 6298/449

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL

Sir:

Attached is/are:

- ☒ Transmittal (in duplicate); Notice of Appeal Form PTO/SB/31 (in duplicate); and Written Statement As To Substance Of Interview And Communication About New Office Action And Extension Of Time Fees.
☒ Return Receipt Postcard.

Fee calculation:

- ☐ No additional fee is required.
☐ Small Entity.
☐ An extension fee in an amount of \$_____ for a _____-month extension of time under 37 C.F.R. § 1.136(a).
☐ A petition or processing fee in an amount of \$_____ under 37 C.F.R. § 1.17(____).
☐ An additional filing fee has been calculated as shown below.

					Small Entity			Not a Small Entity	
	Claims Remaining After Amendment		Highest No. Previously Paid For	Present Extra	Rate	Add'l Fee	or	Rate	Add'l Fee
Total		Minus			x \$25=			x \$50=	
Indep.		Minus			X100=			x \$200=	
First Presentation of Multiple Dep. Claim					+\$180=			+ \$360=	
					Total	\$		Total	\$

Fee payment:

- ☐ A check in the amount of \$_____ is enclosed.
☐ Please charge Deposit Account No. 23-1925 in the amount of \$_____. A copy of this Transmittal is enclosed for this purpose.
☐ Payment by credit card in the amount of \$_____ (Form PTO-2038 is attached).
☒ The Director is hereby authorized to charge payment of any additional filing fees required under 37 CFR § 1.16 and any patent application processing fees under 37 CFR § 1.17 associated with this paper (including any extension fee required to ensure that this paper is timely filed), or to credit any overpayment, to Deposit Account No. 23-1925.

Respectfully submitted,

Andrew D. Stover (Reg. No. 38,629)

Date

8/8/06

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PATENT

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In re Application of:)
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Grychowski, et al.) Examiner: Patel, Nihir B.
)
Serial No: 10/774,751)
) Group Art No: 3743
Filed: February 9, 2004)
)
For: VENTILATOR CIRCUIT AND)
METHOD FOR THE USE THEREOF)

**WRITTEN STATEMENT AS TO SUBSTANCE OF INTERVIEW AND
COMMUNICATION ABOUT NEW OFFICE ACTION AND EXTENSION OF
TIME FEES**

MS AF
Commissioner For Patents
Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants mailed a Response After Final on April 6, 2006, which was less than two (2) months from the February 8, 2006 mailing date of the outstanding Office Action. To date, Applicants have not received an advisory action responding to Applicants' Response. Accordingly, Applicants submit that no petition for extension of time under 37 CFR 1.136 is required for the timely filing of the accompanying Notice of Appeal (MPEP 706.07(f)).

Applicants' undersigned attorney further notes that he attempted to contact Examiner Patel and/or Supervisory Examiner Bennett on or about June 1, 2006, July 19, 2006 and July 25, 2006 about the status of the Response mailed April 6, 2006 and

whether a new, non-final Office Action would be mailed to Applicants. Applicants' attorney did not receive any return messages.

On or about July 25, 2006, Applicants' undersigned attorney contacted Examiner Teena Mitchell, who also is in Group 3743. Applicants gratefully acknowledge that Examiners Mitchell and Patel returned Applicants' call and indicated in a telephone message that Examiner Patel would issue a new, non-final Office Action by July 28, 2006. Applicants' undersigned attorney explained that they would need to take some action by August 8, 2006 if Applicants had not received the new action. On August 3, 2006, Applicants' undersigned attorney did not see any such action on the USPTO PAIR system and again contacted Examiner Patel and explained the six month deadline of August 8, 2006 was approaching. Examiner Patel indicated that the new action would be mailed out by August 7, 2006. Again on August 7, 2006, Applicants' undersigned attorney did not see any such action on the PAIR system and attempted to contact Examiner Patel about the forthcoming action. Applicants also asked Examiner Patel to transmit a copy of the action by facsimile to the undersigned attorney.

Finally, on August 8, 2006, Applicants still had not received a facsimile transmission and could not confirm on PAIR that a new action had been posted. Accordingly, Applicants have filed the accompanying Notice of Appeal to preserve Applicants' rights and to avoid abandonment of the present application, notwithstanding that the Examiner had indicated that the outstanding Office Action would be withdrawn.


Applicants respectfully request that the any fees charged in connection with the Notice of Appeal be refunded upon issuance of the new Office Action promised by the Examiner.

If for any reason another interview would be helpful to resolve any of these issues, the Examiner is respectfully requested to call the undersigned attorney at (312) 321-4713.

Respectfully Submitted,

Dated: August 8, 2006

By:

A handwritten signature in black ink, appearing to read 'AS', written over a horizontal line.

Andrew D. Stover

Reg. No. 38,629

Attorney for Applicants

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